

Senate Bill 300

By: Senators Rogers of the 21st and Pearson of the 51st

AS PASSED

AN ACT

To amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for audits and the examination of books and records; to provide for the creation and maintenance of a website which provides public access to certain state expenditure information; to provide for a short title; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Department of Audits and Accounts and the Department of Revenue; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by revising Code Section 50-6-4, relating to special examinations, audits, and vulnerability assessments, as follows:

"50-6-4.

The Governor, the Appropriations Committee of the House of Representatives, or the Appropriations Committee of the Senate shall have the right and authority to direct and require the state auditor to make a special examination into and audit of all the books, records, accounts, vouchers, warrants, bills, and other papers, records, financial transactions, and management of any department, institution, agency, commission, bureau, authority, or office of the state at any time. The state auditor may conduct special examinations and audits which are, without limitation, financial audits (including financial related audits and financial statement audits), compliance audits, performance audits, and vulnerability assessments or reviews. Without limitation, vulnerability assessments or reviews may be made with respect to any electronic financial information systems; other information, management, or operational systems; computers; computer operating and applications software; computing networks; Internet websites; and data processing centers. Tests conducted in connection with such reviews and assessments may include, but are not limited to, penetration testing and network, web, and data base scanning."

SECTION 2.

Said title is further amended by revising Code Section 50-6-7, relating to state officials to produce books, records, and other papers to the state auditor for examination, as follows:

"50-6-7.

All officers, agents, employees, departments, institutions, commissions, authorities, and bureaus of the state shall produce and turn over to the state auditor or his or her assistants for examination and audit, whenever demanded by the state auditor, all of their books, records, accounts, vouchers, warrants, bills, and other papers dealing with or reflecting upon the financial transactions and management of such department, institution, agency, commission, authority, bureau, or office, including any and all cash on hand, but not including cash in banks, the amount of cash in banks to be ascertained by certificate furnished to the state auditor by the bank."

SECTION 3.

Said title is further amended by revising Code Section 50-6-24, relating to duties and powers of the state auditor, as follows:

"50-6-24.

The duties and powers of the state auditor shall be as follows:

- (1) Reserved;
- (2) To examine thoroughly all financial transactions of all the state departments, institutions, agencies, commissions, bureaus, authorities, and officers and to keep such accounting records as are necessary to provide and maintain a current check upon the fiscal affairs and transactions of all state departments, institutions, agencies, etc.;
- (3) To examine and audit thoroughly, at least once a year and more frequently if possible, each and all of the books, records, accounts, vouchers, warrants, bills, and all other papers and records of each and every department, institution, agency, commission, bureau, authority, and officer of the state which or who receives funds from the state or which is maintained in whole or in part by public funds, fees, or commissions. Upon the completion of each audit the state auditor shall prepare a complete report of the same in triplicate, one copy of which shall be filed with the official in charge of the department, institution, etc., so examined, one copy of which shall be transmitted to the Governor, and the third copy of which shall be filed in the office of the state auditor as a permanent record and for the use of the press of the state. In any such report, the state auditor shall call special attention to any illegal, improper, or unnecessary expenditures; all failures to

keep records and vouchers required by the law; and all inaccuracies, irregularities, and shortages and shall make specific recommendations for the future avoidance of the same;

(4) To prepare annual and, whenever required, special reports to the Governor and the General Assembly showing the general financial operation and management of each state department, institution, agency, commission, authority, and bureau; showing whether or not the same is being handled in an efficient and economical manner; and calling special attention to any excessive cost of operation or maintenance, any excessive expense, and any excessive price paid for goods, supplies, or labor by any such department, institution, agency, etc.; and

(5) To make special examination into and report of the place and manner in which the funds of the state are kept by the several departments, institutions, agencies, commissions, bureaus, authorities, and officers after the same have been drawn from the state treasury or after the same have been collected and to report who has possession of the same or where the same are deposited, whether the same draw interest, the rate of interest, and whether the same are properly protected by bond, provided that this chapter shall not be construed so as to authorize the state auditor to remove or in any way interfere with any funds so deposited."

SECTION 4.

Said title is further amended by revising Code Section 50-6-25, relating to maintenance of statistics on architectural and engineering firms doing business with the state and ineligibility of firms, as follows:

"50-6-25.

(a)(1) The state auditor shall maintain statistics on all architectural and engineering firms doing business with the various departments, agencies, authorities, and public corporations of the state, except the Department of Transportation which shall be governed by paragraph (2) of this subsection. The statistics shall show the percentage of the total state business done by each such firm and shall be made available to the General Assembly and all departments, agencies, authorities, and public corporations of the state using architectural and engineering services. The state auditor shall compile the statistics and shall maintain the statistics current on a monthly basis.

(2) The state auditor shall include in the statistics provided for in paragraph (1) of this subsection all architectural and engineering firms doing business with the Department of Transportation. The Department of Transportation shall report its architectural and engineering contracts to the state auditor in two divisions. In the first division, such

department shall report those contracts which are under a gross value of \$1 million at the time of execution by the total contract amount without accounting for any subcontracts. In the second division, such department shall report those contracts with a gross value in excess of \$1 million at the time of execution and shall report all subcontracts thereunder which are in excess of \$25,000.00 as further provided for in this Code section. The statistics shall show the total percentage of state business done by each such firm and shall be made available to the General Assembly and the Department of Transportation. The state auditor shall compile the statistics and shall maintain the statistics current on a monthly basis. With respect to any contract of the Department of Transportation in excess of \$1 million with an architectural or engineering firm which awards a portion of the business in an amount in excess of \$25,000.00 under such contract to one or more subcontractors or joint-venture partners, such department shall report to the state auditor the amount of each subcontractor or joint-venture partner with that portion of the business awarded to such subcontractor or joint-venture partner, and such amounts shall not be listed or included as business of the Department of Transportation awarded to the architectural or engineering firm receiving the state contract. The architectural or engineering firm shall report to the Department of Transportation, as part of its preaward audit conducted by such department, the amount of business in excess of \$25,000.00 under an anticipated contract which the contractor intends to award to any subcontractor or joint-venture partner, and, after verification that the information reported is correct, the Department of Transportation shall furnish such information to the state auditor. The state auditor shall revise the statistics with respect to architectural and engineering firms currently doing business with the Department of Transportation with respect to contracts outstanding on April 19, 1995, under which all services have not been performed by such architectural and engineering firms in satisfaction of the contract. Such revised statistics shall be computed in accordance with the provisions of this subsection crediting subcontractors and joint-venture partners with business awarded to them and providing that such amounts credited shall not be listed or included as business of the state awarded to the architectural or engineering firm receiving the state contract. Such revised statistics shall be provided by the contractor within 60 days of April 19, 1995, and, after such time, the state auditor shall not be required to revise such statistics.

(b) Any architectural or engineering firm which has received more than 10 percent of the total awarded for such services by the departments, agencies, authorities, and public corporations of the state during any period of 36 months, as calculated pursuant to the provisions of subsection (a) of this Code section and shown by the statistics of the state

auditor, shall be ineligible to contract with any department, agency, authority, or public corporation of the state until the firm, during any period of 36 months, has been awarded less than 10 percent of the total awarded for such services; provided, however, that any architectural or engineering firm may contract with the Department of Transportation for not more than 30 percent of the total awarded for such services, 10 percent for transportation purposes, and 20 percent for tollway purposes."

SECTION 5.

Said title is further amended by revising Code Section 50-6-27, relating to annual personnel report, copies for the General Assembly, and public inspection, as follows:

"50-6-27.

The state auditor shall prepare each year a report showing the entire personnel of every office, institution, board, department, and commission in the executive department of the state government, of every state authority, of every university or college in the University System of Georgia, and of every local board of education. The report shall list the name, title or functional area, salary, and travel expense incurred by each such individual, which information shall be allocated to the respective office, institution, board, department, commission, authority, university, college, or local board of education affected. The report shall be kept in the state auditor's office and shall be available for public inspection during regular business hours. Copies of the report or portions of the report shall be made available on request and posted online in a searchable data base. Each office, institution, board, department, commission, authority, university, college, and local board of education is required and directed to submit to the state auditor, in a format prescribed by the state auditor, a listing of all personnel of such office, institution, board, department, commission, authority, university, college, or local board of education showing name, title or functional area, salary, and travel expense for each individual. The state auditor shall furnish each member of the General Assembly a card or form so that a copy of such report may be requested by any member who desires one."

SECTION 6.

Said title is further amended by revising Code Section 50-6-30, relating to conducting hearings and assistance of the Attorney General, as follows:

"50-6-30.

A hearing as provided in Code Section 50-6-29 shall be held in the county where the department or institution being investigated is located and may be presided over by the state auditor. The state auditor shall, at any time when he or she deems necessary, request of the Governor, Lieutenant Governor, or Speaker of the House of Representatives legal assistance in conducting the investigation. Upon such request, the Governor shall designate the Attorney General, his or her assistants, or any special assistant attorney general for the purpose of assisting the state auditor in the prosecution of the investigation."

SECTION 7.

Said title is further amended by adding a new Code section to read as follows:

"50-6-32.

(a) This Code section shall be known and may be cited as the 'Transparency in Government Act.'

(b) As used in this Code section, the term:

(1) 'Agency' means each department, commission, authority, and agency of the executive branch of government and the Board of Regents of the University System of Georgia.

(2) 'Searchable website' means a website that allows the public to review and analyze information identified in subsection (c) of this Code section.

(c) No later than January 1, 2009, the department shall develop and operate a single searchable website accessible by the public, at no cost, that provides the following information pertaining to state fiscal year 2008:

(1) The State of Georgia Comprehensive Annual Financial Report that includes an indexed statement of operations and a statement of financial condition of the state in accordance with governmental generally acceptable accounting principles;

(2) The annual Budgetary Compliance Report for the state that provides, by agency, an indexed report comparing budgeted and actual revenues and expenditures by budgetary units for each organization included in the Appropriations Act, as amended. Such report shall include, at a minimum, a statement of the taxes and other revenues remitted to the state treasury and operating revenues retained by the agency during the immediately preceding fiscal year as well as a statement of total expenditures made by the agency during the immediately preceding fiscal year;

(3) The annual State of Georgia Single Audit Report that provides, by federal grant, an indexed listing of all expenditures of federal funds and also discloses by state organization any audit findings and corrective actions to be taken;

(4) Salaries and expenses of full-time and part-time employees and board members;

- (5) A list of consultant expenses and other professional services expenses;
- (6) State Budget in Brief, indexed by reporting agency; and
- (7) All performance audits conducted by the department for the preceding five years.

As soon as is practical after the close of each fiscal year, the department shall update the single searchable website for such fiscal year to include the information set forth in this subsection.

(d) No later than January 1, 2010, the department shall develop and add to the searchable website a report of certain grant and contract payments made or due to vendors by agencies reporting through the state's general financial accounting and information system and all payments made through economic and incentive programs operated by the Department of Economic Development, the Department of Labor, the Department of Community Affairs, the Department of Agriculture, and the Georgia Lottery Corporation pertaining to state fiscal year 2009. Such report shall include, at a minimum:

- (1) A list of all obligations entered into by the agency during the immediately preceding fiscal year which call for the agency to expend at any time in the aggregate more than \$50,000.00; and
- (2) A list of the names of each person, firm, or corporation that has received from the agency during the immediately preceding fiscal year payments in excess of \$20,000.00 in the aggregate, including the amount paid to such person, firm, or corporation during such period.

As soon as is practical after the close of each fiscal year, the department shall update the single searchable website for such fiscal year to include the information set forth in this subsection.

(e) All agencies of state government shall provide to the Department of Audits and Accounts such information as is necessary to accomplish the purposes of this Code section.

(f) Nothing in this Code section shall require the disclosure of information which is considered confidential by state or federal law."

SECTION 8.

All laws and parts of laws in conflict with this Act are repealed.